



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 28, 1995

Mr. Robert E. Diaz  
Assistant City Attorney  
City of Arlington Police Department  
P.O. Box 1065  
Arlington, Texas 76004-1065

OR95-1020

Dear Mr. Diaz:

You have asked whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 27474.

The City of Arlington (the "city") received a request for information relating to a shooting by a police officer. The city contends that the requested records are excepted from disclosure under section 552.103(a). To show the applicability of section 552.103(a), a governmental entity must show that (1) litigation is pending or reasonably anticipated and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.—Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4.

You submitted to this office information showing that the city is involved in pending litigation over the shooting. We also have reviewed the information at issue and conclude that it is related to the litigation.<sup>1</sup> Thus, the city has met its burden of showing the applicability of section 552.103(a) and may withhold the information from disclosure pursuant to section 552.103(a). We note, however, that absent special circumstances, once information has been obtained by all parties to the anticipated litigation, through discovery or otherwise, no section 552.103(a) interest exists with respect to

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<sup>1</sup>We assume that the newspaper articles, which do not appear to be responsive to the request, were submitted to this office for informational purposes only.

that information. Open Records Decision No. 349 (1982) at 2. The applicability of section 552.103(a) also ends once the litigation has concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982) at 3.<sup>2</sup>

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding the other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/rho

Ref.: ID# 27474

Enclosures: Submitted documents

cc: Mr. Bill McNulty  
Senior Investigator/Supervisor  
Special Investigations Unit  
The Travelers Corporation  
P.O. Box 660456  
Dallas, Texas 75266-0456  
(w/o enclosures)

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<sup>2</sup>We note that some of the information at issue is confidential and may not be released even after the litigation has concluded. However, since the section 552.103(a) exception is discretionary with the governmental entity asserting the exception, you have the discretion to release non-confidential information to the requestor at any time. Gov't Code § 552.007; Open Records Decision No. 542 (1990) at 4.